



The Association of Container Reconditioners

"Responsible Container Management"

P-1370

177594

RSPA -1998-12615-1

December 30, 1998

Mr. Alan I. Roberts
Associate Administrator for
Hazardous Materials Safety
Research & Special Programs Administration
Department of Transportation

Re: Petition for rulemaking; Section 173.29

Dear Mr. Roberts:

In accordance with §106.31 of RSPA's procedural regulations, the Intermediate Bulk Container Product Group of the Reusable Industrial Packaging Association (formerly the Association of Container Reconditioners), hereby petitions for a change to the provisions of §173.29(c) of the hazardous materials regulations.

For many years, this provision has provided an exception to the general rules on shipment of emptied non-bulk packaging that contains only residual hazardous materials. Specifically, these emptied packagings are not placarded, nor are they subject to shipping paper requirements when collected and transported by a contract or private carrier for reconditioning, remanufacture, or reuse. Accordingly, drums being carried by members of our association need not be accompanied by shipping papers, nor need the vehicles be placarded.

In HM-181, DOT adopted the international concept of an intermediate bulk container (IBC). IBCs now provide a common packaging alternative for hazardous materials shippers and more than 75% of the members of our association are engaged in the pick up, cleaning, repairing, reprocessing, testing, and recertification of IBCs. The IBCs are being picked up and handled in the same manner as drums, but for the limited exception in §173.29 that results in the emptier having to offer the reconditioner appropriate shipping papers and placards for emptied IBCs. With other types of bulk packagings, the original shipper commonly arranges for the return of the emptied packaging including preparation of shipping documents. This service is not provided by the original shippers of IBCs any more than it is by shippers of non-bulk hazardous materials. Persons who empty IBCs, therefore, must determine the proper shipping description without the benefit of having manufactured the material or otherwise being familiar with its transportation. They also must provide the carrier with emergency response information and maintain a 24-hour emergency response telephone contact to note on the shipping papers.

Maintaining placards on bulk units such as tank cars and cargo tanks is relatively simple. They may be affixed permanently to those units and the packaging makes up the exterior of the vehicle. Often, these bulk packagings are owned by the carrier who has contracted for the movement of specific hazardous materials. These loads are described on shipping documents that remain in the possession of the vehicle driver. For IBCs, however, the outside of the trailer containing them must be placarded as well as the IBC. The placard and 4-digit identification number can be and often is different for each IBC. Reconditioners' trucks customarily are not equipped to maintain hazardous materials placards, especially separate placards for each emptied IBC that might be carried on the vehicle.

None of our member reconditioners processing drums and IBCs accept packaging that fails to comply with the empty container criteria in the EPA hazardous waste regulations (40 CFR §261.7). For a drum this means no more than 1-inch of viscous materials or 3% of the original capacity of the container. For an IBC it means no more than 0.3% of the original capacity of the container. The volume of hazardous residue remaining in this emptied packaging does not warrant the serious regulatory burdens posed for the shipper and the carrier by the DOT regulations now applicable to empty IBCs.

Accordingly, on behalf of the Intermediate Bulk Container Group of the Reusable Industrial Packaging Association, I hereby petition for adoption of a modification to §173.29(c), as follows:

(c) A non-bulk packaging or intermediate bulk container containing only the residue of a hazardous material covered by Table 2 of §172.504 of this subchapter, and meeting the empty container criteria in the regulations of the Environmental Protection Agency in 40 CFR 261.7(b)(1) –

(1) Does not have to be included in determining the applicability of the placarding requirements of subpart F of part 172 of this subchapter; and

(2) Is not subject to the shipping paper requirements of this subchapter when collected and transported by a contract or private carrier for dedicated reuse in compliance with 173.28(b)(7), or for reprocessing (i.e., cleaning, repair, reconditioning or remanufacturing).

Please contact me if you have any questions on this petition for rulemaking.

Sincerely,



Paul W. Rankin
President

cc: B. Shocklee
R. Buckner
L. Bierlein
D. Gluntz